

Spectral Instrument Using Multiple Non-Interfering Optical Beam Paths and Elements For Use
Therewith.

Dkt. No. IL0116-SPEC

Serial No. 09/728,247

REMARKS

This amendment, Paper No. 6, is submitted in response to the Official Action, Paper No. 5, dated February 13, 2003.

Applicant traverses those rejections with which he has not complied, and respectfully requests reexamination and reconsideration of the Application based on the above amendments and the following remarks.

The Specification

The specification is objected to because it contained drawings at Pages 29-32. The drawings have been removed and are now separate Figures 19-22. The Brief Description of the Drawings and the Detailed Description have been amended to indicate that the objected to drawings are now separate Figures. Therefore the objection to the Specification has been overcome and Applicant respectfully requests withdrawal of the objection. No new matter has been added.

The Drawings

The drawings have been amended to add four new Figures, Figures 19, 20, 21 and 22 that were sketches removed from the body of the specification and placed as separate Figures. No new matter has been added.

The Claims

35 USC § 112, second paragraph

Claims 1-14, 26-29, 33 and 37 stand rejected under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Examiner asserts that lines 2-5 of independent claim 1 are indefinite. With respect to claim 3, Examiner asks what are the functions performed upon the detected optical energy?

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How are the performed functions the functions of a monochromator or a spectral energy source?

Applicant has amended claim 1 to include examples of the types of functions performed by a spectral instrument such as receiving an incident beam of optical energy, reflecting, refracting, absorbing, focusing etc. Applicant has also included examples of the types of optical devices that may perform various functions, such as mirrors, lenses etc. Therefore, the functions of the invention are defined and the functions are clearly the functions of a monochromator and other spectral instruments originally recited.

Therefore, because the functions and devices of the invention are clearly defined in the claim the rejection has been overcome and Applicant respectfully requests withdrawal of the rejection.

Examiner then states that claims 2-14 inherit the problems of claim 1 and clarification is required. Claims 2, 5-8 and 10-14 have been amended to clarify the claims and thus the rejections have been overcome. In addition, because claim 1 has been clarified and is now an allowable base claim, dependent claims 2-14 are also allowable, and Applicant respectfully requests withdrawal of the rejections.

Claim 2 is held as indefinite in that it fails to specify where the means for receiving commands is located and what it is connected to. Examiner asks if it is in the spectral instrument or the power module.

Applicant has amended claim 2 to clarify that the means for receiving commands is located in the power module as part of the means for communicating. Thus, this rejection has been overcome and Applicant respectfully requests withdrawal of the rejection.

Claims 5-7 are held indefinite in that they fail to specify where the means for comparing data is located and what it is connected to. Examiner asks if it is in the spectral instrument or the power module.

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Applicant has amended claims 5-7 to clarify that the means for comparing data is part of the means for controlling the instrument and the means for performing the functions of the instrument, and can be part of the software on the controlling computer. See the claims claims 5-7 depend from for the introduction of the software element. Therefore, this rejection has been overcome and Applicant respectfully requests withdrawal of the rejection.

Claim 8 is held indefinite because it fails to specify where the programmable electronics and means to indicate malfunction are located and what they are connected to. Again Examiner asks if they are in the spectral instrument or the power module.

Applicant has amended claim 8 to clarify the location and function of the programmable electronics and the LED means to indicate malfunction as being connected to the power module and the means for communication, to indicate if there is power or data transfer. Thus, this rejection has been overcome and Applicant requests withdrawal of the rejection.

Claims 10-14 are held indefinite in that they fail to specify the orientation, location and function of the optical components. Examiner asserts that the claims fail to set forth the metes and bounds for which patent protection is sought.

Applicant has amended claims 10-14 to clarify what the various optical components are and their relative orientation, function and relationships. Thus, this rejection has been overcome and Applicant respectfully requests withdrawal of the rejection.

Examiner did not understand lines 6 and 7 of claims 26-28. Examiner asks what "a use of said spectral instrument" means.

This "a use of said spectral instrument" was simply a "typo". It should have read, "a USER" and claims 26-28 have been amended to recite a user. Thus, this rejection has been overcome and Applicant respectfully requests withdrawal of the rejection.

Finally Examiner asserts that the claims are replete with indefinite language. Examiner states that the structure which goes to make up the device must be clearly and

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positively specified, and that the structure must be organized and correlated in such a manner as to present a complete operative device.

Based on the claim amendments made with this response, Applicant believes the invention is clearly defined and that the claims are not indefinite. Applicant respectfully requests reconsideration of the claims as amended, and withdrawal of the rejections.

No new matter has been added by any of the claim amendments.

Allowable Subject Matter

Examiner states that claims 1-14, 26-29, 33 and 37 would be allowable if rewritten or amended to overcome the rejections under 35 USC § 112, second paragraph, as set forth in the Official Action.

Applicant has amended claims 1-14, 26-29 to overcome the rejections, and thus claims 33 and 37 should also be allowable as depending from now-allowable claim 28.

Examiner then states that claims 15-25, 30-32, 34-36 and 38-40 are allowed over the prior art of record.

Applicant has not amended the allowable claims.

Conclusion

The specification and claims have been amended to overcome the objection based on figures/sketches being present in the specification. The sketches have been removed and are now new Figure numbers 19-22 that are attached and submitted herewith. Thus, the objection has been overcome.

The claims have been amended to clarify Examiner's questions with respect to some of the relationships and functions of some of the elements of the invention. Claims 1, 2, 5-8, 10-14 and 26-28 have all been amended. Thus, the rejections have been overcome.

No new matter has been added by any of the amendments.

In Re: Application of: Ryer, D.

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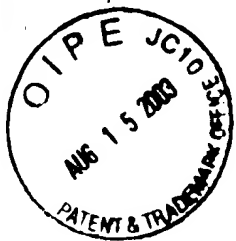
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Therefore, Applicant respectfully requests reconsideration of the Application, and withdrawal of the rejections such that the application is now in condition for allowance. Any fees due in connection with this response are included herewith. If there are any additional matters Examiner wishes to discuss to put the case in condition for allowance, please feel free to contact Applicant's attorney, Kristin Kohler, at 231-275-3799.

Respectfully submitted,



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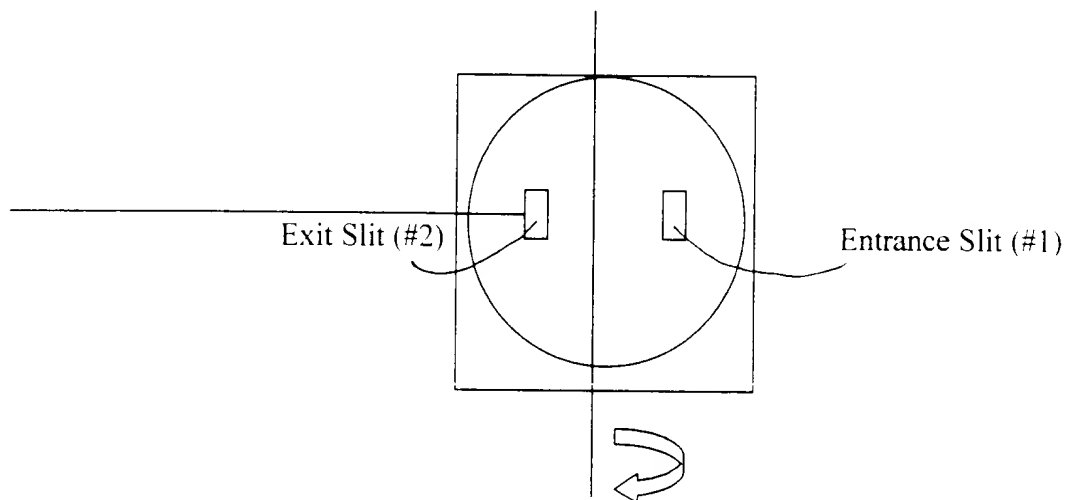


FIGURE 19 (PRIOR ART)

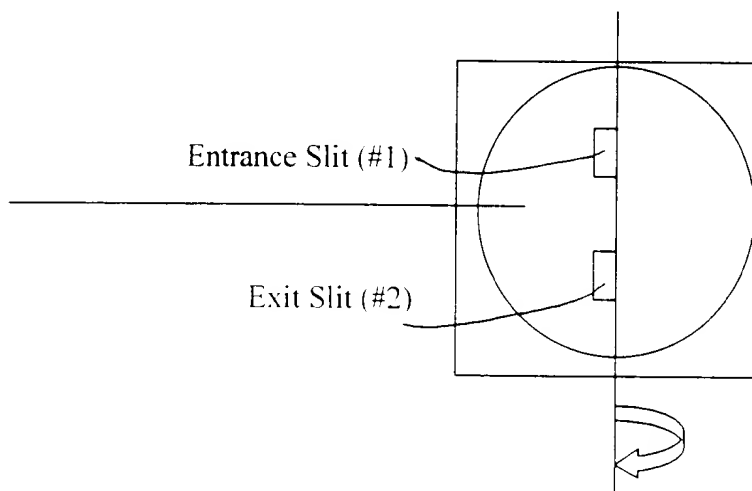


FIGURE 20
(PRIOR ART)



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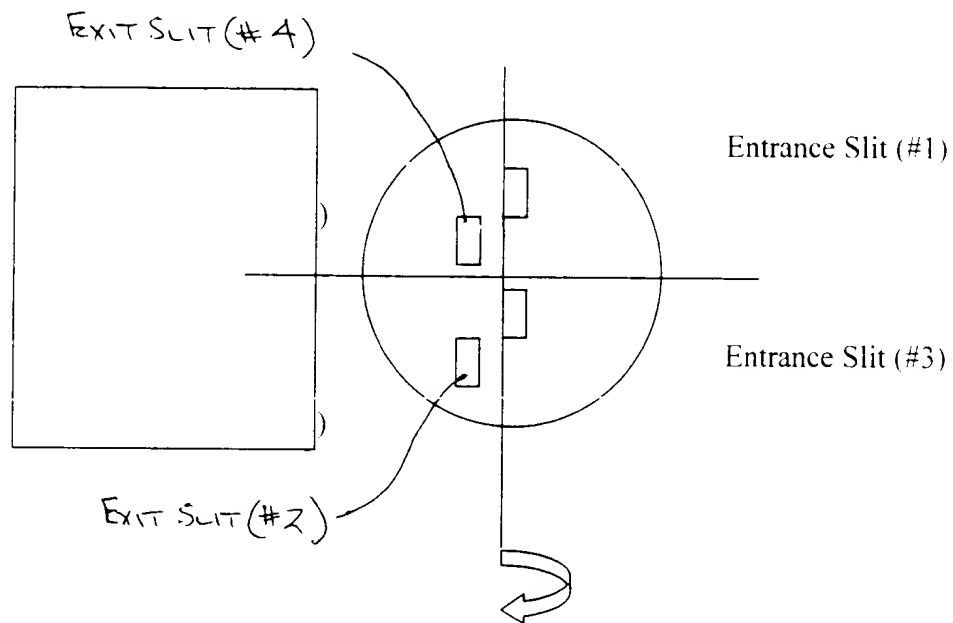


FIGURE 21

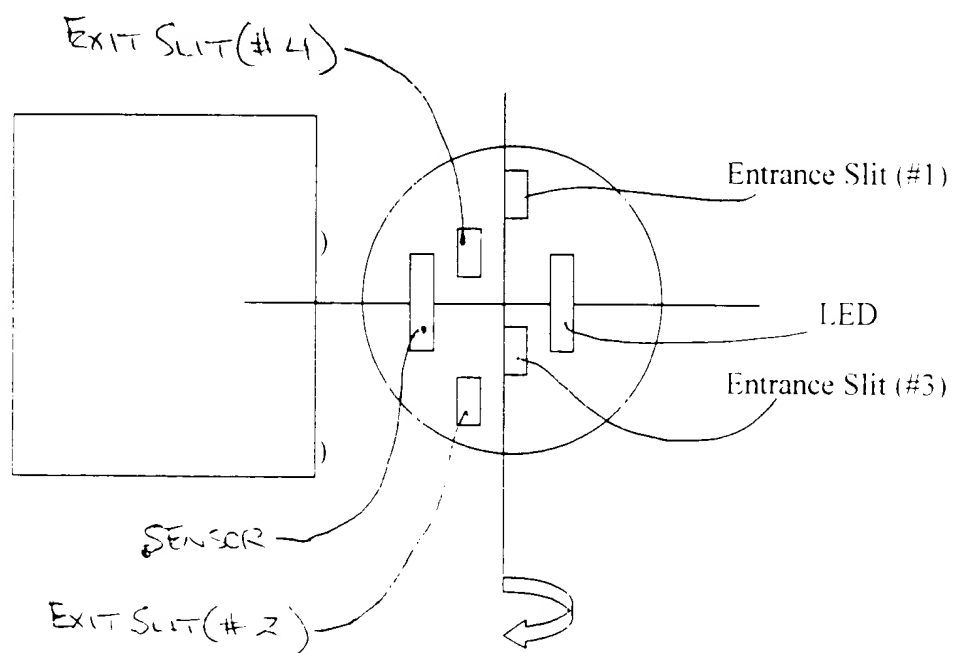


FIGURE 22